

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

PALMER EVENTS, LLC,

Plaintiff,

v.

HYUNDAI HOPE ON WHEELS,

Defendant.

Case No. 3:15-cv-02223-PK

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Paul Papak issued Findings and Recommendation in this case on February 26, 2016. Dkt. 14. Judge Papak recommended that the Court deny Defendant's motion to dismiss for improper venue, grant Defendant's motion to transfer the case to the United States District Court for the Central District Court of California under 28 U.S.C. § 1404(a), and deny Defendant's motion to dismiss for failure to state a claim as moot except to the extent Plaintiff concedes that it has failed to state a claim for its third cause of action, account stated (*see* Dkt. 9 at 6). No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Papak’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Judge Papak’s Findings and Recommendation, Dkt. 14. Defendant’s motion (Dkt. 3) is denied in part and granted in part. Defendant’s motion to dismiss is denied; Defendant’s motion to transfer the case to the United States District Court for the Central District of California is granted; and Defendant’s motion to dismiss for failure to state a claim is denied as moot except to the extent that the motion pertains to Plaintiff’s third cause of action, which Plaintiff concedes should be dismissed without prejudice. The Clerk of the Court is directed to transfer this action to the

United States District Court for the Central District of California and to send a copy of Judge Papak's Findings and Recommendation and this Order to that court.

IT IS SO ORDERED.

DATED this 25nd day of March, 2016.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge